

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

In the Matter of:

**Laura Lynne Lucas,
Debtor.**

**Chapter 7
Case No: 19-30218-dof
Judge
Adversary Proceeding No. 19-_____-dof**

_____/

**Tracy B. Sutton,
Plaintiff,**

v.

**Laura Lynne Lucas,
Defendant/Debtor.**

COMPLAINT IN ADVERSARY PROCEEDING

Plaintiff, Tracy B. Sutton, creditor of the Defendant/Debtor, brings the instant complaint to avoid discharge of a debt by the Debtor, Laura Lynne Lucas, pursuant to 11 U.S.C. §523 and 11 U.S.C. §727.

JURISDICTION AND VENUE

1. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §1334.
2. This District is the proper venue for this proceeding pursuant to 28 U.S.C. §1409.

PARTIES

3. The Plaintiff, Tracy B. Sutton, is the former spouse of the Defendant/Debtor, Laura Lynne Lucas and a resident of the Eastern District of the State of Michigan.
4. That Defendant/Debtor, Laura Lynne Lucas, is a resident of the Eastern District of the State of Michigan.

BACKGROUND

5. That on or about August 16, 2016 the parties were divorced in the Circuit Court for the County of Lapeer, Michigan in case number 15-049159-DM(S) upon the entry of a Consent Judgment of Divorce.
6. That on or about October 9, 2018, the parties stipulated to the entry of an "Order Amending Consent Judgment of Divorce".
7. That the Order Amending Consent Judgment of Divorce, amended the Property Settlement and Provision in Lieu of Dower, as follows:

"IT IS FURTHER ORDERED AND ADJUDGED that the Defendant, LAURA L. LUCAS (f/k/a Laura L. Sutton) shall pay to the Plaintiff, TRACY B. SUTTON, the sum of Six Thousand (\$6,000.00) Dollars. The Defendant shall pay the said sum in equal payments of One Hundred Twenty Five (\$125.00) Dollars per month for 48 months, with the first payment being made on or before November 1, 2018, and the 1st of each month thereafter until paid..."

8. That the Defendant/Debtor, Laura Lynne Lucas, filed for Bankruptcy under Chapter 7 on or about January 30, 2019 in this District, case number 19-30218-dof.

CLAIMS FOR RELIEF

COUNT 1

9. The Plaintiff hereby incorporates and re-alleges by reference each and every allegation contained in paragraphs 1 through 8 of his Counter-Complaint as if more specifically stated herein paragraph by paragraph, word for word.
10. That the above said debt is non-dischargeable pursuant to 11U.S.C. §523(a)(15).
11. That Tracy B. Sutton is the former spouse of the Defendant/Debtor, Laura Lynne Lucas.
12. That this debt is not of the kind described in 11 U.S.C. §523(a)(5) for spousal support or child support.

13. That the said debt was incurred by the Defendant/Debtor, Laura Lynne Lucas in the course of a divorce or in connection with a divorce decree or other order of a court of record, or a determination made in accordance with State or territorial law by a governmental unit.

COUNT 2

14. The Plaintiff hereby incorporates and re-alleges by reference each and every allegation contained in paragraphs 1 through 13 of his Counter-Complaint as if more specifically stated herein paragraph by paragraph, word for word

15. That in Schedule E/F of her bankruptcy filings, the Defendant/Debtor, Laura Lynne Lucas, listed the debt to “Tracy Sutton” as a nonpriority unsecured claim under “Other. Specify: legal settlement”.

16. That at the Meeting of Creditors and under oath, held February 28, 2019, the Defendant/Debtor admitted all of the allegations contained in paragraphs 11, 12 and 13 regarding the debt.

17. That at the Meeting of Creditors, the Defendant/Debtor agreed to amend her Schedule E/F to list the debt to Tracy B. Sutton to check the box marked “Obligations arising out of a separation agreement or divorce that you did not report as priority claims”.

18. That when the Defendant/Debtor did amend her Schedule E/F she did not check the box as stated in paragraph 15, but instead amended the assertion to say, “Other. Specify: settlement encapsulated in an Order Amending Consent Judgement of Divorce but derived from Custody/Visitation modification agreement (non-support)”.

19. That the Defendant/Debtor made the above representations in Schedule E/F and her Amended Schedule E/F with the knowledge that it was false or made the said

representations recklessly.

20. That the Defendant/Debtor made the above statements on her Bankruptcy Schedules with the intent that the Court and Tracy B. Sutton rely upon the said statement in order to obtain a discharge of the debt owed to Tracy B. Sutton.

21. That Tracy B. Sutton would be injured without taking action against the Defendant/Debtor if the said debt was discharged.

PRAYER FOR RELIEF

WHEREFORE the Plaintiff, Tracy B. Sutton, respectfully requests that this Honorable Court grant him a Judgment with the following relief:

- A. Prohibit the discharge of the debt owed by Laura Lynne Lucas to Tracy B. Sutton pursuant to 11 U.S.C. §523(a)(15); and
- B. Award Tracy Sutton actual attorney fees and costs wrongfully incurred in having to prosecute this matter; and
- C. Award Tracy B. Sutton any other such relief as this Honorable Court finds just and proper.

Respectfully submitted,

Dated: April 23, 2019

/s/ Ramsey H. Mashni
RAMSEY H. MASHNI (P51314)
MASHNI LAW, PLC
132 W. Nepessing Street
Lapeer, Michigan 48446
Telephone: 810-245-2345
mashnijd@gmail.com